

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SUSANA A. GONZALES
Deputy Attorney General
4 State Bar No. 253027
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2221
Facsimile: (510) 622-2270
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Petition to Revoke
12 Probation Against,

Case No. 2006-270

13 **MARY KRISTIN BRANZEI**
14 **P.O. Box 2418**
Redway, CA 95560
Registered Nurse License No. 630236

PETITION TO REVOKE PROBATION

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Petition to Revoke Probation
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs.

22 2. On or about December 16, 2003, the Board of Registered Nursing issued Registered
23 Nurse License Number 630236 to Mary Kristin Branzei (Respondent). The Registered Nurse
24 License was in effect at all times relevant to the charges brought in this Petition to Revoke
25 Probation and will expire on May 31, 2011, unless renewed.

26 3. In a disciplinary action entitled "In the Matter of the Accusation Against Mary Kristin
27 Branzei," Case No. 2006-270, the Board of Registered Nursing issued a Default Decision and
28

1 Order, effective December 7, 2006, in which Respondent's Registered Nurse License was
2 revoked.

3 4. In a disciplinary action entitled "In the Matter of Petition for Reinstatement: Mary
4 Kristin Branzei," No. 2010010125, the Board of Registered Nursing, issued a decision, effective
5 March 19, 2010, in which Respondent's petition for reinstatement was granted and her Registered
6 Nurse License was reinstated and immediately revoked. The revocation was stayed, however,
7 and Respondent's Registered Nurse License was placed on probation for a period of three (3)
8 years with certain terms and conditions. A copy of that decision is attached as exhibit A and is
9 incorporated by reference.

10 JURISDICTION

11 5. This Petition to Revoke Probation is brought before the Board of Registered Nursing
12 (Board), Department of Consumer Affairs.

13 FIRST CAUSE TO REVOKE PROBATION

14 (Failure to Comply With Terms and Conditions of Probation)

15 6. At all times after the effective date of Respondent's probation, Condition 2 stated:

16 **Comply with the Board's Probation Program.** Petitioner shall fully
17 comply with the conditions of the probation program established by the board and
18 cooperate with representatives of the board in its monitoring and investigation of the
19 petitioner's compliance with the board's probation program. Petitioner shall inform
20 the board in writing within no more than 15 days of any address change and shall at
21 all times maintain an active, current license status with the board, including during
22 any period of suspension.

23 Upon successful completion of probation, petitioner's license shall be
24 fully restored.

25 7. Respondent's probation is subject to revocation because she failed to comply with
26 Probation Condition 2, referenced above. The facts and circumstances regarding this violation
27 are that Respondent failed to comply with Probation Conditions 5 (Failure to Submit Written
28 Reports), 14 (Failure to Participate in Treatment/Rehabilitation Program for Chemical
Dependence), and 16 (Failure to Submit to Tests and Samples).

SECOND CAUSE TO REVOKE PROBATION

(Failure to Submit Written Reports)

8. At all times after the effective date of Respondent's probation, Condition 5 stated:

Submit Written Reports. Petitioner, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the board. These reports/declarations shall contain statements relative to petitioner's compliance with all the conditions of the board's probation program. Petitioner shall immediately execute all release of information forms as may be required by the board or its representatives.

Petitioner shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which has a registered nurse license.

9. Respondent's probation is subject to revocation because she failed to comply with Probation Condition 5, referenced above. The circumstances regarding this violation are that Respondent failed to submit quarterly reports to the Board for the periods covering October 1, 2010, to December 31, 2010, and January 1, 2011, to March 30, 2011.

THIRD CAUSE TO REVOKE PROBATION

(Failure to Participate in Treatment/Rehabilitation Program for Chemical Dependence)

10. At all times after the effective date of Respondent's probation, Condition 14 stated:

Participate In Treatment/Rehabilitation Program for Chemical Dependence. Petitioner, at her expense, shall successfully complete during the probationary period or shall have successfully completed prior to commencement of probation a board-approved treatment/rehabilitation program of at least six months duration. As required, reports shall be submitted by the program on forms provided by the board. If petitioner has not completed a board-approved treatment/rehabilitation program prior to commencement of probation, petitioner, within 45 days from the effective date of the decision, shall be enrolled in a program. If a program is not successfully completed within the first nine months of probation, the board shall consider petitioner in violation of probation.

Based on board recommendation, each week petitioner shall be required to attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the board. If a nurse support group is not available, an additional 12-step meeting or equivalent shall be added. Petitioner shall submit dated and signed documentation confirming such attendance to the board during the entire period of probation. Petitioner shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.

11. Respondent's probation is subject to revocation because she failed to comply with Probation Condition 14, referenced above. The circumstances regarding this violation are that Respondent failed to provide a report of completion of a rehabilitation program within nine months of the effective date of the Board's decision. Furthermore, Respondent failed to attend at

1 least one Alcoholics Anonymous or Narcotics Anonymous group and one Nurse Support Group
2 each week, and failed to provide attendance reports signed by the facilitator.

3 FOURTH CAUSE TO REVOKE PROBATION
4 (Failure to Submit to Tests and Samples)

5 12. At all times after the effective date of Respondent's probation, Condition 16 stated:

6 **Submit to Tests and Samples.** Petitioner, at her own expense, shall participate in a
7 random, biological fluid testing or a drug screening program which the board approves. The
8 length of time and frequency will be subject to approval by the board. Petitioner is responsible
9 for keeping the board informed of Petitioner's current telephone number at all times. Petitioner
10 shall also ensure that messages may be left at the telephone number when she is not available and
ensure that reports are submitted directly by the testing agency to the board, as directed. Any
confirmed positive finding shall be reported immediately to the board by the program and
petitioner shall be considered in violation of probation.

11 In addition, petitioner, at any time during the period of probation, shall fully
12 cooperate with the board or any of its representatives, and shall, when requested, submit to such
tests and samples as the board or its representatives may require for the detection of alcohol,
narcotics, hypnotics, dangerous drugs, or other controlled substances.

13 If petitioner has a positive drug screen for any substance not legally authorized and
14 not reported to the coordinating physician, nurse practitioner, or physician assistant, and the board
files a petition to revoke probation or an accusation, the board may suspend petitioner from
15 practice pending the final decision on the petition to revoke probation or the accusation. This
period of suspension will not apply to the reduction of this probationary time period.

16 If petitioner fails to participate in a random, biological fluid testing or drug screening
17 program within the specified time frame, petitioner shall immediately cease practice and shall not
resume practice until notified by the board. After taking into account documented evidence of
18 mitigation, if the board files a petition to revoke probation or an accusation, the board may
suspend petitioner from practice pending the final decision on the petition to revoke probation or
19 the accusation. This period of suspension will not apply to the reduction of this probationary
period.

20 13. Respondent's probation is subject to revocation because she failed to comply with
21 Probation Condition 16, referenced above. The circumstances regarding this violation are that
22 Respondent failed to call FirstLab for random urine screenings on the following dates: September
23 5, 2010, September 28, 2010, November 3, 2010, and November 30, 2010, through April 14,
24 2011. Furthermore, Respondent was selected for testing but failed to test on the following dates:
25 December 9, 2010, December 16, 2010, January 5, 2011, January 14, 2011, February 21, 2011,
26 February 25, 2011, March 21, 2011, March 23, 2011, April 4, 2011, April 7, 2011, and April 12,
27 2011.
28

1 PRAYER

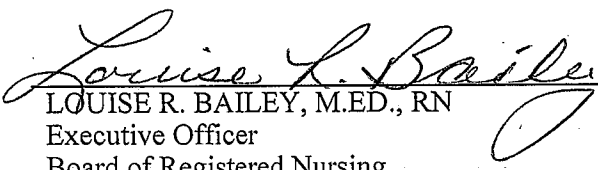
2 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
3 Petition to Revoke Probation, and that following the hearing, the Board of Registered Nursing
4 issue a decision:

5 1. Revoking the probation that was granted by the Board of Registered Nursing in OAH
6 Case No. 2010010125 and imposing the disciplinary order that was stayed, thereby revoking
7 Registered Nurse License No. 630236 issued to Mary Kristin Branzei;

8 2. Revoking or suspending Registered Nurse License No. 630236, issued to Mary
9 Kristin Branzei;

10 3. Taking such other and further action as deemed necessary and proper.
11

12 DATED: April 22, 2011


13 LOUISE R. BAILEY, M.ED., RN
14 Executive Officer
15 Board of Registered Nursing
16 Department of Consumer Affairs
17 State of California
18 Complainant

17 SF2011900074
18 90186386.doc
19
20
21
22
23
24
25
26
27
28

Exhibit A

Decision and Order

Board of Registered Nursing Case No. 2006-270

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for
Reinstatement:

Mary Kristin Branzei

Registered Nurse License No. 630236

Petitioner.

OAH No. 2010010125

DECISION

The attached Decision of the Board of Registered Nursing is hereby adopted by the Board
as its Decision in the above-entitled matter.

This Decision shall become effective on March 19, 2010.

IT IS SO ORDERED this 18th day of February 2010.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for
Reinstatement of Revoked License of

MARY KRISTIN BRANZEI,

Petitioner.

OAH No. 2010010125

DECISION

This matter was heard before of the Board of Registered Nursing in Berkeley, California, on January 14, 2010. Board members present and participating were Ann L. Boynton, President; Jeannine Graves, RN; Judy L. Corless, BSN, RN; Dian Harrison, MSW; Richard L. Rice; and Catherine M. Todero, PhD, RN. Michael C. Cohn, Administrative Law Judge, State of California, Office of Administrative Hearings, presided.

The Department of Justice, Office of the Attorney General, was represented by Hannah H. Rose, Deputy Attorney General.

Petitioner Mary Branzei represented herself.

FACTUAL FINDINGS

1. Petitioner Mary Kristin Branzei was issued registered nurse license number 630236 on December 16, 2003. Pursuant to a default decision of the board effective December 7, 2006, petitioner's license was revoked upon findings that she had been convicted in October 2004 of alcohol-related reckless driving, and that based on the actions that led to that conviction, she had used alcoholic beverages to an extent or in a manner dangerous or injurious to herself, to another person, or to the public.

2. Prior to coming to California, petitioner was three times convicted of driving under the influence of alcohol in Michigan, in 1988, 1989 and 1997. Following her arrest in 2004, petitioner realized that her life had become unmanageable and that she was powerless in the face of alcohol. She admitted she was an alcoholic and began a recovery program. She has been sober since July 9, 2004. Petitioner is active in AA, attending at least one meeting a week. She also attends AA meetings with her "husband" and her son and supports them in their recovery. Petitioner's partner, whom she describes as her husband, has been sober since he entered an alcohol treatment center in November 2007. Both petitioner and her husband were able to maintain their sobriety through a most trying situation – the death of their younger son in September 2008.

3. Petitioner lives and works in Garberville, a small town in Humboldt County. She worked as an LVN at Phelps Community Hospital from 1998 to 2003, before receiving her RN license. She then worked as an RN at the hospital from 2003 until 2006. She returned to the hospital as an LVN in 2008 and is presently employed in that position.

4. Phelps Community Hospital is a small hospital with 16 patients, eight of whom are in the hospital's skilled nursing facility unit. Petitioner seeks reinstatement of her nursing license so that she can work more effectively at Phelps, which works with a very small staff. In addition, she has been offered the opportunity to move into a management position that requires an RN license. Petitioner presented letters of support from co-workers and supervisors at Phelps, all of which attest to petitioner's high level of skill and her conscientious work habits.

LEGAL CONCLUSIONS

Petitioner has been sober for five and a half years. She has accepted full responsibility for her actions and recognizes her alcoholism. She has maintained consistent employment and has shown good progress in her recovery. Petitioner has presented strong evidence of rehabilitation and has established to the satisfaction of the board that it would not be against the public interest to reinstate her registered nurse license upon appropriate terms and conditions. Because of petitioner's history of substance abuse, the probationary conditions must include those related to drug and alcohol use.

ORDER

The petition of Mary Kristin Branzei for reinstatement of licensure is hereby granted. Registered nurse license number 630236 shall be reinstated provided that all licensing requirements are completed within two years of the effective date of this decision. The license shall be immediately revoked, the order of revocation stayed, and petitioner placed on probation for a period of three years on the following conditions:

SEVERABILITY CLAUSE – Each condition of probation contained herein is a separate and distinct condition. If any condition of this order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this order, and all other applications thereof, shall not be affected. Each condition of this order shall separately be valid and enforceable to the fullest extent permitted by law.

- (1) OBEY ALL LAWS - Petitioner shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by petitioner to the board in writing within 72 hours of occurrence. To permit monitoring of compliance with this condition, petitioner shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

CRIMINAL COURT ORDERS: If petitioner is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

(2) COMPLY WITH THE BOARD'S PROBATION PROGRAM - Petitioner shall fully comply with the conditions of the probation program established by the board and shall cooperate with representatives of the board in its monitoring and investigation of petitioner's compliance with the board's probation program. Petitioner shall inform the board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the board, including during any period of suspension.

Upon successful completion of probation, petitioner's license shall be fully restored.

(3) REPORT IN PERSON - Petitioner, during the period of probation, shall appear in person at interviews/meetings as directed by the board or its designated representatives.

(4) RESIDENCY, PRACTICE, OR LICENSURE OUTSIDE OF STATE - Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Petitioner's probation is tolled if and when she resides outside of California. Petitioner must provide written notice to the board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Petitioner shall provide a list of all states and territories where she has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Petitioner shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Petitioner shall inform the board if she applies for or obtains a new nursing license during the term of probation.

(5) SUBMIT WRITTEN REPORTS - Petitioner, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the board. These reports/declarations shall contain statements relative to petitioner's compliance with all the conditions of the board's probation program. Petitioner shall immediately execute all release of information forms as may be required by the board or its representatives.

Petitioner shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which has a registered nurse license.

(6) FUNCTION AS A REGISTERED NURSE - Petitioner, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for six consecutive months or as determined by the board.

For purposes of compliance with this section, "engage in the practice of registered nursing" may include, when approved by the board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for six consecutive months or as determined by the board.

If petitioner has not complied with this condition during the probationary term, and petitioner has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the board, in its discretion, may grant an extension of petitioner's probation period up to one year without further hearing in order to comply with this condition. During the one-year extension, all original conditions of probation shall apply.

(7) EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS - Petitioner shall obtain prior approval from the board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Petitioner shall cause to be submitted to the board all performance evaluations and other employment related reports as a registered nurse upon request of the board.

Petitioner shall provide a copy of this decision to her employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, petitioner shall notify the board in writing within 72 hours after she obtains any nursing or other health care related employment. Petitioner shall notify the board in writing within 72 hours after she is terminated or separated, regardless of cause, from any nursing or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

(8) SUPERVISION - Petitioner shall obtain prior approval from the board regarding petitioner's level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Petitioner shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless

alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Petitioner's level of supervision and/or collaboration may include, but is not limited to the following:

- (a) Maximum – The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.
- (b) Moderate – The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours petitioner works.
- (c) Minimum – The individual providing supervision and/or collaboration has person-to-person communication with petitioner at least twice during each shift worked.
- (d) Home Health Care – If petitioner is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with petitioner as required by the board each work day. Petitioner shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the board, periodic on-site visits to patients' homes visited by petitioner with or without petitioner present.

(9) EMPLOYMENT LIMITATIONS - Petitioner shall not work for a nurse's registry, a temporary nurse placement agency, an in-house nursing pool, in any private duty position as a registered nurse, or as a traveling nurse.

Petitioner shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the board. Petitioner shall not work in any other registered nursing occupation where home visits are required.

Petitioner shall not work in any health care setting as a supervisor of registered nurses. The board may additionally restrict petitioner from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Petitioner shall not work as a faculty member in an approved school of nursing or as an instructor in a board-approved continuing education program.

Petitioner shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If petitioner is working or intends to work in excess of 40 hours per week, the board may request documentation to determine whether there should be restrictions on the hours of work.

(10) COMPLETE A NURSING COURSE(S) - Petitioner, at her own expense, shall enroll in and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of her probationary term.

Petitioner shall obtain prior approval from the board before enrolling in the course(s). Petitioner shall submit to the board the original transcripts or certificates of completion for the above required course(s). The board shall return the original documents to petitioner after photocopying them for its records.

(11) VIOLATION OF PROBATION - If petitioner violates the conditions of her probation, the board after giving petitioner notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation) of petitioner's license.

If during the period of probation an accusation or petition to revoke probation has been filed against petitioner's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against petitioner's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the board.

(12) LICENSE SURRENDER - During petitioner's term of probation, if she ceases practicing due to retirement or health reasons, or is otherwise unable to satisfy the conditions of probation, petitioner may surrender her license to the board. The board reserves the right to evaluate petitioner's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, petitioner will no longer be subject to the conditions of probation.

Surrender of petitioner's license shall be considered a disciplinary action and shall become a part of petitioner's license history with the board. A registered nurse whose license has been surrendered may petition the board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

- 1) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or
- 2) One year for a license surrendered for a mental or physical illness.

(13) PHYSICAL EXAMINATION - Within 45 days of the effective date of this decision, petitioner, at her expense, shall have a licensed physician, nurse practitioner,

or physician assistant, who is approved by the board before the assessment is performed, submit an assessment of petitioner's physical condition and capability to perform the duties of a registered nurse. Such an assessment shall be submitted in a format acceptable to the board. If medically determined, a recommended treatment program will be instituted and followed by petitioner with the physician, nurse practitioner, or physician assistant providing written reports to the board on forms provided by the board.

If petitioner is determined to be unable to practice safely as a registered nurse, the licensed physician, nurse practitioner, or physician assistant making this determination shall immediately notify the board and petitioner by telephone, and the board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Petitioner shall immediately cease practice and shall not resume practice until notified by the board. During this period of suspension, petitioner shall not engage in any practice for which a license issued by the board is required until the board has notified petitioner that a medical determination permits petitioner to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If petitioner fails to have the above assessment submitted to the board within the 45-day requirement, petitioner shall immediately cease practice and shall not resume practice until notified by the board. This period of suspension will not apply to the reduction of this probationary time period. The board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by petitioner to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

(14) PARTICIPATE IN TREATMENT/REHABILITATION PROGRAM FOR CHEMICAL DEPENDENCE - Petitioner, at her expense, shall successfully complete during the probationary period or shall have successfully completed prior to commencement of probation a board-approved treatment/rehabilitation program of at least six months duration. As required, reports shall be submitted by the program on forms provided by the board. If petitioner has not completed a board-approved treatment/rehabilitation program prior to commencement of probation, petitioner, within 45 days from the effective date of the decision, shall be enrolled in a program. If a program is not successfully completed within the first nine months of probation, the board shall consider petitioner in violation of probation.

Based on board recommendation, each week petitioner shall be required to attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the board. If a nurse support group is not available, an additional 12-step meeting or equivalent shall be added. Petitioner shall submit dated and signed documentation confirming such attendance to the board during the entire

period of probation. Petitioner shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.

(15) ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING) DRUGS -

Petitioner shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Petitioner shall have sent to the board, in writing and within 14 days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, petitioner's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Petitioner shall identify for the board a single physician, nurse practitioner or physician assistant who shall be aware of petitioner's history of substance abuse and will coordinate and monitor any prescriptions for petitioner for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the board on a quarterly basis petitioner's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

(16) SUBMIT TO TESTS AND SAMPLES - Petitioner, at her expense, shall participate in a random, biological fluid testing or a drug screening program which the board approves. The length of time and frequency will be subject to approval by the board. Petitioner is responsible for keeping the board informed of petitioner's current telephone number at all times. Petitioner shall also ensure that messages may be left at the telephone number when she is not available and ensure that reports are submitted directly by the testing agency to the board, as directed. Any confirmed positive finding shall be reported immediately to the board by the program and petitioner shall be considered in violation of probation.

In addition, petitioner, at any time during the period of probation, shall fully cooperate with the board or any of its representatives, and shall, when requested, submit to such tests and samples as the board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If petitioner has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant,

and the board files a petition to revoke probation or an accusation, the board may suspend petitioner from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

If petitioner fails to participate in a random, biological fluid testing or drug screening program within the specified time frame, petitioner shall immediately cease practice and shall not resume practice until notified by the board. After taking into account documented evidence of mitigation, if the board files a petition to revoke probation or an accusation, the board may suspend petitioner from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

(17) MENTAL HEALTH EXAMINATION - Petitioner shall, within 45 days of the effective date of this decision, have a mental health examination including psychological testing as appropriate to determine her capability to perform the duties of a registered nurse. The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the board. All costs are the responsibility of petitioner. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by petitioner.

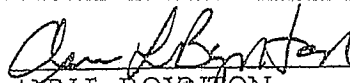
If petitioner is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the board and petitioner by telephone, and the board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Petitioner shall immediately cease practice and may not resume practice until notified by the board. During this period of suspension, petitioner shall not engage in any practice for which a license issued by the board is required, until the board has notified petitioner that a mental health determination permits petitioner to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If petitioner fails to have the above assessment submitted to the board within the 45-day requirement, petitioner shall immediately cease practice and shall not resume practice until notified by the board. This period of suspension will not apply to the reduction of this probationary time period. The board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by petitioner to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

(18) THERAPY OR COUNSELING PROGRAM - Petitioner, at her expense, shall participate in an on-going counseling program until such time as the board releases

him from this requirement and only upon the recommendation of the counselor.
Written progress reports from the counselor will be required at various intervals.

DATED: 2-18-10



ANN L. BOYNTON

President

Board of Registered Nursing

Department of Consumer Affairs

RECEIVED
BOARD OF
REGISTERED NURSING
SACRAMENTO

2010 FEB 16 PM 5:18

RECEIVED

1 BILL LOCKYER, Attorney General
of the State of California
2 HANNAH HIRSCH ROSE, State Bar No. 56276
Deputy Attorney General
3 California Department of Justice
455 Golden Gate Avenue, Suite 11000
4 San Francisco, CA 94102-7004
Telephone: (415) 703-5515
5 Facsimile: (415) 703-5480

6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2006-270

11 MARY KRISTIN BRANZEI
12 P.O. Box 2418
Redway, CA 95560

OAH No. .

DEFAULT DECISION
AND ORDER

13 Registered Nurse License No. 630236

[Gov. Code, §11520]

14 Respondent.
15

16 **FINDINGS OF FACT**

17 1. On or about June 20, 2006, Complainant Ruth Ann Terry, M.P.H., R.N., in
18 her official capacity as the Executive Officer of the Board of Registered Nursing, Department of
19 Consumer Affairs, filed Accusation No. 2006-270 against Mary Kristin Branzei (Respondent)
20 before the Board of Registered Nursing.

21 2. On or about December 16, 2003, the Board of Registered Nursing (Board)
22 issued Registered Nurse License No. 630236 to Respondent. The Registered Nurse License was
23 in full force and effect at all times relevant to the charges brought herein and will expire on May
24 31, 2007, unless renewed.

25 3. On or about June 22, 2006, Millie Lam, an employee of the Department of
26 Justice, served by Certified Mail and First Class mail a copy of the Accusation No. 2006-270,
27 Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code
28 sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which

1 was and is P.O. Box 2418, Redway, CA 95560 and also to 333 Forest Drive, Redway, CA 95560.

2 A copy of the Accusation, the related documents, and Declaration of Service are attached as
3 exhibit A, and are incorporated herein by reference.

4 4. Service of the Accusation was effective as a matter of law under the
5 provisions of Government Code section 11505, subdivision (c).

6 5. On or about June 30, 2006, a receipt for service at P.O. Box 2418,
7 Redway, CA 95560 was returned, signed by "MK Branzei" and date stamped at Redway, CA
8 95560 on June 28, 2006. A copy of the postal returned receipt is attached hereto as exhibit B,
9 and is incorporated herein by reference.

10 6. Government Code section 11506 states, in pertinent part:

11 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
12 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
13 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
14 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

15 7. Respondent failed to file a Notice of Defense within 15 days after service
16 upon her of the Accusation, and therefore waived her right to a hearing on the merits of
17 Accusation No. 2006-270.

18 8. California Government Code section 11520 states, in pertinent part:

19 "(a) If the respondent either fails to file a notice of defense or to appear at the
20 hearing, the agency may take action based upon the respondent's express admissions or upon
21 other evidence and affidavits may be used as evidence without any notice to respondent."

22 9. Pursuant to its authority under Government Code section 11520, the Board
23 finds Respondent is in default. The Board will take action without further hearing and, based on
24 Respondent's express admissions by way of default and the evidence before it, contained in
25 exhibits A and B finds that the allegations in Accusation No. 2006-270 are true.

26 10. The total costs for investigation and enforcement are \$1,855.00 as of
27 September 6, 2006.

28 //

DETERMINATION OF ISSUES

1
2 1. Based on the foregoing findings of fact, Respondent Mary Kristin Branzei
3 has subjected her Registered Nurse License No. 630236 to discipline.

4 2. Copies of the Accusation and the related documents, the Declaration of
5 Service and return receipt for mailing are attached.

6 3. The agency has jurisdiction to adjudicate this case by default.

7 4. The Board of Registered Nursing is authorized to revoke Respondent's
8 Registered Nurse License based upon the following violations alleged in the Accusation:

9 a. Conviction of a crime in violation of Business and Professions
10 Code sections 490 and 2761(f), in conjunction with Title 16, California Code of Regulations,
11 section 1444, based on Respondent's conviction of violation of Vehicle Code section 23103.5,
12 reckless driving, alcohol related, lesser charge from Vehicle Code section 23152(a), driving
13 under the influence, a misdemeanor.

14 b. Unprofessional Conduct in violation of section 2762(b) of the
15 Business and Professions Code in that Respondent used alcoholic beverages, to an extent or in a
16 manner dangerous or injurious to herself, any other person, or the public.

17 //

18 //

19 //

20 //

21 //

22 //

23 //

24 //

25 //

26 //

27 //

28 //

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MARY KRISTIN BRANZEI
P.O. Box 2418
Redway, CA 95560

Registered Nurse License No. 630236

Respondent.

Case No. 2006-270

OAH No.

DEFAULT DECISION
AND ORDER

[Gov. Code, §11520]

ORDER

IT IS SO ORDERED that Registered Nurse License No. 630236, heretofore issued to Respondent Mary Kristin Branzei, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on December 7, 2006.

It is so ORDERED November 7, 2006

La Francine H. Tate

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

Attachments:

Exhibit A: Accusation No. 2006-270, Related Documents, and Declaration of Service
Exhibit B: Postal Return Documents

DOJ docket number: 03579110-SF2005401398
40107340.wpd